

BOARD OF POLICE COMMISSIONERS

Minutes of the Regular Board of Police Commissioners Meeting Thursday, September 18, 2003

The regular meeting of the Detroit Board of Police Commissioners was held on Thursday, September 18, 2003, at 3:00 p.m., at Police Headquarters, 1300 Beaubien, Rm. 328-A, Detroit, MI 48226.

ATTENDANCE

Board Members Present

Willie E. Hampton
Arthur Blackwell, II
Erminia Ramirez
Edgar L. Vann, Jr.
Megan P. Norris

Department Personnel Present

Chief Jerry A. Oliver, Sr.
AC Walter E. Shoulders
AC Ella Bully Cummings
AC Timothy Black
DC Harold Cureton
DC Gary Christian
Civ. 3rd DC Tara Dulap
Insp. Jeffery O'Neill
Insp. Jamie Fields
Insp. Fred McClure
Lt. R. Nolan
Sgt. Kenneth Williams
Sgt. Gerard Franklin
Sgt. Ramona Bennett
Sgt. Mielzc
PO Marty Bandermer
PO Eric Jarmons
PO S. Greer-Travis
PO Irvette Reed
PO J. Watson

Board Staff Present

Dante' L. Goss, Executive Director
Denise R. Hooks, Attorney/Supv. Investigator
Arnold Sheard, Interim Chief Investigator
E. Lynise Bryant-Weekes, Personnel Director

RECORDERS

Jerome Adams
Felicia Hardaway
Kellie D. Williams

OTHERS PRESENT

Ms. Walters

1. CALL TO ORDER

Chairperson Hampton called the regular meeting of the Detroit Board of Police Commissioners to order at 3:21 p.m.

2. APPROVAL OF MINUTES

• **Thursday, September 11, 2003**

MOTION: Commissioner Blackwell made the motion to adopt the Minutes.

SECOND: Commissioner Norris seconded the motion.

VOTE: All in attendance voted in the affirmative.

3. REPORT FROM THE CHAIR

Resolutions

**RESOLUTION HONORING
INSPECTOR MICAH L. SMITH**

WHEREAS On September 5, 2003, Inspector Micah L. Smith, Commanding Officer of the Mobile Support Section, retired from the Detroit Police Department after more than thirty-five (35) years of exemplary service to the citizens of Detroit, and

WHEREAS Micah Smith was appointed to the Detroit Police Department as a Police Officer on September 25, 1967, and

WHEREAS Upon graduation from the Detroit Police Academy, Police Officer Smith was assigned to the Sixth Precinct, and

WHEREAS During his more than thirty five (35) years with the Department, his assignments included the Seventh Precinct, Tactical Services Section, First Precinct, Youth Crime Unit, Traffic Section, Central Division, Special Events Section, Felony Prevention Division (CATS), Tenth Precinct, Eight Precinct, Second Precinct, Residency Unit, Records Section, Gaming Administration Section, and the Mobile Support Section from where he is retiring, and

WHEREAS On August 1, 1974, Officer Smith was promoted to the rank of Sergeant. On January 13, 1977, Sergeant Smith was promoted to the rank of Lieutenant. On February 14, 1986, Lieutenant Smith was promoted to Inspector.

WHEREAS During his career, Inspector Smith was the recipient of one (1) GOP Commemorative Award, (6) Chief's Unit Awards, (7) Chief's Merit Awards, (2) Departmental Citations, (1) Lifesaving Award, (9) Perfect Attendance Awards, (21) Letters and Certificates of Commendation and Appreciation, and (4) Other Citations.

WHEREAS Inspector received a Bachelors Degree from the Madonna University and received his Masters Degree from Eastern Michigan, and

NOW, THEREFORE BE IT

RESOLVED That the Board of Police Commissioners, speaking for the citizens of the City of Detroit and the Detroit Police Department acknowledge that Inspector Micah L. Smith has served the City of Detroit and the Detroit Police Department with loyalty, professionalism, integrity, and dedication for thirty-five (35) years. He is widely respected as a person of honesty and integrity, and highly regarded throughout the law enforcement ranks and the community he has served so proudly. Inspector Smith's actions were in accordance with the highest standards and traditions of the Detroit Police Department.

We salute and congratulate you, Inspector Micah L. Smith.

DETROIT BOARD OF POLICE COMMISSIONERS

MOTION: Commissioner Blackwell made the motion to adopt the Resolution.

SECOND: Commissioner Norris seconded the motion.

VOTE: All in attendance voted in the affirmative.

4. SECRETARY REPORT – EX. DIR. GOSS

Suspension

On September 18, 2003, **Police Officer John Bennett**, badge 3019, assigned to the Seventh Precinct, was suspended **without pay** by Chief Jerry A. Oliver, Sr.

On or about November 24, 2002 until the present, Officer Bennett began operating a website made available to the public. These web pages currently are contained in the archives of the website and at various times were on the main pages of the website.

A comprehensive review of the web pages revealed numerous entries that are in clear violation of several provisions of the Code of Conduct of the Detroit Police Department and for which Officer Bennett, as self-admitted webmaster, is responsible. These entries constitute a continuing violation of the Code of Conduct in view of their continuing publication. ***It is important to note that the cited entries are, or were at sometime since November 24, 2002, a part of the “Main Pages” of the website whose content is controlled exclusively by the webmaster.***

The specific language and depictions from the website which constitute violations of the Code of Conduct are clearly laid out in the attached executive summary. Based upon the above circumstances, it is recommended that Officer Bennett be charged with, but not limited to, the following violations of the Detroit Police Department Code of Conduct:

I. Creating a Hostile Work Environment.

Charge 1: Communicating and publishing racial and sexual statements which create a hostile work environment, this being in violation of Directive 102.1, Section 2 of the Detroit Police Department Manual.

II. Advocacy of Illegal Employment Action.

Charge 1: Aiding, abetting, or suggesting the abstinence in whole or in part from the faithful and proper performance of the duties of employment (i.e. Blue Flu/Work Stoppage.), this being in violation of Directive 102.3, Section 5.8, Subsection 1 of the Detroit Police Department Manual.

III. Release of Confidential Information.

Charge 1: Communicating or giving police information to any person concerning the business of the department which is detrimental to the department, this being in violation of Directive 102.3, Section 5.1 of the Detroit Police Department Manual.

Charge 2: Neglect of Duty, this being in violation of Directive 102.3, Section 5.14 of the Detroit Police Department Manual.

IV. Statements Impugning Character of Chief of Police and Department Members.

Charge 1: Publicly engaging in activities designed to bring discredit upon city or department executives, administrative policies or activities, this being in violation of Directive 102.3, Section 5.12, Subsection 8 of the Detroit Police Department Manual.

Charge 2: Neglect of Duty, this being in violation of Directive 102.3, Section 5.14 of the Detroit Police Department Manual.

Charge 3: Conduct Unbecoming an Officer, this being in violation of Directive 102.3, Section 14 of the Detroit Police Department Manual.

Charge 4: Failure to exhibit a polite dignified and courteous manner towards any person, prisoner or other officer, this being in violation of Directive 102.3, section 5.7, subsection 1 of the Detroit Police Department Manual's Code of Conduct.

V. Unauthorized Solicitation of Funds

Charge 1: Soliciting Contributions or subscriptions in any form for any purpose without prior approval from the Chief of Police, this being in violation of Directive 102.3, Section 5.12, Subsection 11 of the Detroit Police Department Manual.

Charge 2: Engage in outside business, employment, or occupation without obtaining written permission from the Chief of Police, this being in violation of

Directive 102.3, Section 5.15, Subsection 2 of the Detroit Police Department Manual.

Officer Bennett is a member of the Detroit Police Department, a law enforcement agency, and as such, is bound by not only the Law Enforcement Code of Ethics but also the Department's Code of Conduct. The Detroit Police Department has, as other law enforcement agencies have, adopted a Code of Conduct for the purpose of promoting the order and efficiency of the Department. It is for Officer Bennett's violations of the Code of Conduct, and the seriousness of the conduct.

Atty. John Goldpaugh stated I am somewhat at a disadvantage today. The reason I say that is because I sit here and I was provided today with the charges or the allegations that were read into the record by Mr. Goss earlier today. The more and more that I reviewed them, the more and more I have no idea about what we are talking about. I say that because when you look at these nebulous general allegations that Officer Bennett has been violating the code of conduct it says he created a hostile work environment. How? He advocated an illegal employment action. Where? Where are the specifications? Where are the violations that officers are supposed to answer to today? It appears that not only if we wish to suppress Officer Bennett's right to free speech, we also want to fire him, or at least suspend him without pay without telling him what he did wrong and I find that very interesting. I also find it interesting that on December 14, 2002, our chief of police indicated that (I am quoting from the Free Press), I am talking about this website that you had pointed out Mr. Goss that it has been in effect since at least November 24, 2002. On December 14, 2002, Chief Oliver indicated, "That we have no investigations going on and we see it as a right of people to express themselves, even though I think it is a small group of disgruntle employees. " We are now here today, approximately 10 months after the November 24th date and approximately 8 or 9 months after the Chief's quote to the Free Press, and we now want to suspend without pay Officer Bennett for what reasons I don't know. We look at the allegations, we look at charges and I would suggest to you, members of the Board that even if these were violations and even if they subtitled were worth some sort of discipline, not one of these individual allegations or even bringing together as a whole warrant dismissal from the Detroit Police Department. That's the problem I have with this. That is the problem that I have coming forth before you today, where this Chief and this Department are asking you to suspend Officer Bennett without pay because of what type of action. On November 24, 2002 up until July of 2003, he was operating a website with the knowledge, and the complete acquiescence to operate that website. He is not operating the website on Department business and he is not operating it on the Department's time. He is doing nothing with respect to the website that is available to anyone else, except that he was operating it and he happens to be a Detroit Police Officer. He has to be as he

was quoted in the paper back in December as a “disgruntle police officer,” who didn’t believe in certain comments that certain things should occur and at least he is taking those avenues open to him or for anyone else to bring that information forth. However, I think on July 9th, in the middle of the night, Chief Oliver shows up at the Seventh Precinct. There has been nothing, at least to my knowledge, to indicate there was an investigation ongoing. In fact, Chief Oliver himself indicated that on December 14th that we are not investigating this. Magically, here we are now and we are suspending the man. Where is the investigation? Where are the allegations against him? On July 9th, Chief Oliver shows up at the Seventh Precinct and at that time he suspended Officer Bennett with pay and prepared the reports that night. But the Chief felt it was necessary to go out and suspend the particular officer. I have been doing this for twenty-three years (23). I have done a lot of suspensions. I have done a lot of suspensions when a police officer has been suspended at the precinct or Internal Affairs, and I have never seen a suspension on a police officer when the Chief was there to do it. I kind of wonder about that, but it is obviously his prerogative. He is the Chief of the Department and he can go out and do whatever he wants. I just find it interesting. I also find it interesting that the comments that were made that said, “I am suspending you because of the operation of this website and if you don’t shut it down, your suspension will be without pay.” What has this officer been doing in the operation of this website, which is so egregious? And that is what we are all talking about isn’t it? We are talking about something that has now occurred, which is so egregious, that he cannot continue as a member of the Detroit Police Department. The only interesting part that I see, is in reading the allegations or at least not the allegations, but the comments that were made it is my understanding that Chief Oliver advised Officer Bennett that he had the right to have a website, but not a right to have a website as a police officer. When do police officers give up their constitutional rights? I never understood that. I remember when the Garrity vs New Jersey told us in 1967, just because you become a public employee whether it be police, firefighter garbage man, you don’t have watered down constitutional rights. But I guess maybe if you have a website which is critical of the Chief of Police in Detroit, you do have watered down constitutional rights; that is what appears to me. I also note, that night Chief Oliver indicated the reason that he was being suspended was because the website contained some racial slurs or language that was inappropriate. I have never seen this and honestly I don’t know what we are talking about. But, when I was provided with that information quite some time ago, I did address this with Officer Bennett and asked him what was going on. Officer Bennett provided me with a copy of a cover sheet of the chat room. I am assuming as to what these allegations are, but some of the comments with respect to the racial aspects were dealt with in the chat room area. The chat room itself has a disclaimer that says, “Please sign my guest book. Keep in mind we want to be clean and professional. If you are going to print garbage this is not the site for you. You will be deleted.” If people are going to put something in a website from outside sources and I don’t know where it is coming from, the webmaster cannot be held accountable for

those languages. And he has taken every step to indicate that I don't want this on here and that it is coming out. I guess the biggest problem I have is what has changed so dramatically from November 24, 2002 until today, because now we are here before the Board asking for this suspension to be without pay. Although, there was the threat made if you don't shut it down by nine (9) o'clock tomorrow morning, you will be suspended without pay. What has happened? What has Officer Bennett done that shows that he cannot be a police officer and cannot do his job as a police officer. There has not been an investigation into this matter. I see a bunch of paper work presented to me, but since November 24, 2002 until July 9, 2003 I don't ever recall attending or being notified of an interview where Officer Bennett was being investigated with respect to these alleged violations, which are Department Rules and Regulations. I don't recall at anytime when he was ordered to Internal Affairs or to wherever was doing the investigation that wasn't occurring on December 14, 2002. The cop didn't say I am ordering you under your Garrity rights to answer these questions because this is what you are presenting out there on Officer Bennett and this is inappropriate. It never happened because there was no investigation. From July 13th or whatever dates that the suspension occurred until today, that still hasn't occurred. So, when it comes before you or the Department comes before and says, "We want you to suspend this man without pay, you have not even given him the chance to explain if anything was done and was done improperly here, forgetting about his violations that are alleged here that are clearly an infringement on his constitutional rights. I am looking at the charges and it appears as one of his outside employment. Is he getting paid for operating this? I don't know. Does the Department know? I would suggest that no it does not and even if he was getting paid for it, this is not the type of charge that would warrant an individual from being discharged in court. The soliciting authorized or unauthorized soliciting of funds, I don't know what that is, but I was presented with some information regarding that. So, I am assuming and my assumption is that because on the website there was supposed to be some sort of request that if you want to make contributions to help to defray the costs for this, this is where you can send it. So I am assuming that is what this fund thing is. I guess if that is the case, then if I want to, as a police officer, run in a fund walk and raise money for cancer, I would have to have the Department's permission to do that. I guess if I want to go out and raise funds not as a police officer but as an individual, that I want to give for some charity because that is what this is, I would have to come and ask the Detroit Police Department every time that I go and bowl for disabled kids and raise money from the lack of number of pins that I can roll over. That is what this is all about. This charge is don't go out there dressed up in a uniform and ask the storekeeper to give money and giving money in the name of the Detroit Police Department, but I think that this hold nebulous scattered or gun-scattered approach and these charges without specifications, clearly shows the reaching that this Department is doing at this point in time to try to justify not only... justify I don't know what. But, to claim that please suspend this man and take his livelihood away from him just because he has a website that I don't agree with and just because some people

made contributions (not financial) to that website, which I don't agree with. As I've indicated on December 14, 2003, these were peoples' opinions and there was nothing wrong with them. To my understanding, nothing has changed on that website from December 14, 2002. And now we are still hearing that we want to take away his livelihood and suspend him without pay, without even telling him what the charges are or what he is supposed to do without showing that there are any agedent circumstances or any need to suspend him without pay. I would ask you not to concur with this request.

Chairperson Hampton asked are there any questions?

Vice Chairperson Blackwell stated I would like to hear from the Department first.

Atty. Valerie Colbert-Osamuede stated I am here to remind the Board that as you know, this is the Department's petition that is seeking the suspension without pay of Officer Bennett and the issue is whether the conduct of Police Officer Bennett is egregious enough that a suspension without pay is warranted and the Department certainly believes that it is warranted in this instance. On December 24, 2002, Police Officer Bennett officially registered his www.firejerryo.com website. At various times that website has published statements which are in violation of the Department's policy against harassment, against courtesy and conduct and whatever else is contained within our provisions. Those statements which have been made by Officer Bennett with respect to the harassment issue, I will read just by example:

The Juice expecting!!

Now we are just asking because keeping up with the baby showers could get confusing...It seems a certain little person, otherwise known as the Juice's shorty, also from little town got pregnant. Shorty's soon to be ex-husband had one of those vasectomies so it can't be his little package. Word is the little package so it can't be his little package. Word is the little package belonged to the Juice whose wife Mrs. Juice just had a baby. Could this be why shorty's husband who is a little town Lieutenant filed for divorce and is really distraught over this. The Juice was named in the divorce decree.

This is just an example of the conduct that is in violation of the Detroit Police Department's policy, which prohibits harassment by its members in any form of all members and they have a right to work in an environment, which is free from harassment and discrimination. The Department cannot, does not and must not tolerate any harassment on the basis of sex, gender or weight. And it has legal obligation to remediate any such of this kind of conduct in its workplace. Accordingly, the city of Detroit has an executive order, which has been promulgated since 1994, which strictly prohibits harassment in any form,

including sexual harassment. And there is a city code, in Section 2-1, which expressly prohibits sexual harassment and mandates that the Department take immediate action to remediate any kind of sexual harassment. Simply put, we believe that this kind of conduct falls within the legal definition of what sexual harassment is as stated in the Elliott-Larsen Civil Rights Act

Unless contravened by this Commission, the above suspension without pay will stand.

There were no contraventions to the above suspension without pay.

CITIZEN COMPLAINTS RECEIVED

	<u>This Week</u>	<u>Year to Date</u>
Weekly Count of Complaints:	31	858
Weekly Count of Allegations:	46	1,789
Arrest	2	80
Demeanor	14	560
Entry	1	36
Force	2	136
Harassment	0	59
Procedure	16	617
Property	4	88
Search	1	55
Service	6	157

Pending Cases

As of September 17, 2003, the Office of the Chief Investigator (OCI) has a total of **688 pending cases**, which include **154 cases** with an age of 0-45 days, **87 cases** with an age of 46-60 days, **102 cases** with an age of 61-90 days, and **125 cases** with an age of 91-120 days, **143 cases** with an age of 121 days – 6 months, and **77 cases** with an age of 7-9 months.

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During the past week:	25	Year to Date:	789
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5. **CHIEF'S REPORT**

DETROIT POLICE DEPARTMENT
MIND'N OUR BUSINESS

Board of Police Commissioners

The Detroit Police Department's mission is building a safer Detroit through community partnerships. Therefore, the following enforcement actions were conducted during the week of September 10th-16th, 2003.

ORGANIZED CRIME AND GANG DIVISION

The Conspiracy Intelligence, South-East, North-West and Vice Sections conducted three enforcement actions that resulted in (1) felony and (12) misdemeanor arrests. These enforcement actions resulted in the confiscation of 747 grams of cocaine with a street value of \$298,800.00. (8) Vehicles were confiscated and (12) miscellaneous ordinances were issued from these enforcement actions.

TWELFTH PRECINCT

On September 11, 2003, officers of the Twelfth Precinct received information including a composite, via supervisor, during roll call pertaining to a suspect wanted for attempt rape of a 14-year-old girl. The officers immediately recognized the suspect from previous contact and canvassed the area believed to be his hang out. They spotted and arrested the suspect without incident and conveyed him to the Twelfth Precinct.

SPECIAL SERVICES SECTION (PROPERTY CRIMES UNIT)

On September 11, 2003, members of the Property Crimes Unit, assisted by members of the Wayne County Prosecutors Office Stolen Property Reduction Section, Detroit Police Cyber Crimes Unit, Sterling Heights Police Department and Target, Home Depot, and Marshall Fields loss prevention, executed search warrants at two Cash Money Brokers business located in Detroit and Sterling Heights after weeks of investigation. Cash Money Brokers has been in operation for years purchasing second hand merchandize and is suspected of purchasing thousands of dollars in stolen goods from local retailers. Upon further investigation it was discovered that the merchandize was being stored in a warehouse in the Metro Area until it was sold via Ebay auction. As a result, the owners were arrested and charged with Receiving and Concealing Stolen Property.

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Chief of Police Jerry A. Oliver, Sr.

6. PRESENTATION – TAZER INTERNATIONAL

Tazer International gave a presentation and a demonstration on the use of tasers as an alternative use of force device. Chief Oliver, AC Black, Comm. Norris and Comm. Ramirez participated in the taser demonstration.

7. REQUEST AUTHORITY TO ACCEPT A DONATION

The Detroit Police Department is requesting the Board's authority to accept a donation of two (2) Automated External Defibrillators from Henry Ford Hospital for the Heart Save project.

MOTION: Commissioner Norris made the motion to accept the donation.

SECOND: Commissioner Vann seconded the motion.

VOTE: All in attendance voted in the affirmative.

8. OTHER BUSINESS

There was no Other Business.

9. ORAL COMMUNICATION FROM THE AUDIENCE

10. ANNOUNCEMENT OF NEXT MEETING

**Thursday, September 25, 2003 @ 3:00 p.m.
Police Headquarters
1300 Beaubien, Rm. 328-A
Detroit, Michigan 48226**

11. ADJOURNMENT

Meeting was adjourned at 8:30 p.m.

Respectfully Submitted,

DANTE' L. GOSS
Executive Director
Board of Police Commissioners

DLG/kdw